



Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 0879-0234P	
	Application Number 09/316,033-Conf. #7274	Filed May 21, 1999	
	First Named Inventor Kouki HATAKEYAMA		
	Art Unit 2615	Examiner Y. K. Aggarwal	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- applicant /inventor.
- assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b)  
is enclosed. (Form PTO/SB/96)

- attorney or agent of record.

Registration number \_\_\_\_\_

- attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34. 40,439

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March 3, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below\*.



\*Total of 1 forms are submitted.

The Examiner has made clear errors in interpreting and applying the appropriate tests and applying the prior art in rejecting claims 1-2, 11-12, and 16-17 under 35 U.S.C. § 103(a) as being unpatentable *Maeda* (JP 08-096493) in view of *Saito* (JP 03-186073); and rejecting claims 1-2, 11-12, and 16-17 under 35 U.S.C. § 103(a) as being unpatentable over *Uryu* (USP 6,542,186) in view of *Matsuo* (USP 5,179,505), *Kannan et al.* (USP 5,423,045) and further in view of *Saito*.

**The Examiner has Failed to Establish Prima Facie Obviousness by Failing to Provide References that Teach or Suggest All of the Claim Elements in Asserting Obviousness over Maeda in view of Saito**

The Examiner has made clear error in stating certain claim elements are taught by an unduly broad interpretation of the teachings of the prior art.

In order to sustain a rejection under 35 U.S.C. § 103(a), it is respectfully submitted that the Examiner must meet his burden to establish a *prima facie* case. “To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.” *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

In support of the Examiner’s rejection of claim 1, the Examiner asserts that *Maeda* discloses all of the claim elements except the controller having a timer for measuring elapsed time since the power supply from the power supply part is suspended and the controller turns off the master switch when the elapsed time reaches a predetermined time shorter than a time for an automatic power-off control while the detector does not detect that the lid is closed. The Examiner relies on the teachings of *Saito* to cure the deficiencies of the teachings of *Maeda* asserting as follows:

However Saito teaches an information recording and reproducing device with a recording medium 21 loaded to a disk drive mechanism 6 and is detected by a detection switch 3. When the medium 21 is fitted and a non-operating state is continued over the first prescribed time, a power source is turned off. A timer to measure the elapsed time since the power supply from the power supply part is suspended would be inherently taught. When the medium 21 is not fitted and the non-operating state is continued over a second time shorter than the first time, the power source is turned off (Abstract and constitution). The benefit of doing so would be to have a higher power saving effect as taught in Saito.

Applicant respectfully submits that the teachings of *Saito* are insufficient to cure the deficiencies of the teachings of *Maeda*.

*Saito* discloses an information recording and reproducing device with a recording medium 21 loaded to a disk drive mechanism 6 and is detected by a detection switch 3. When the medium 21 is fitted and a non-operating state is continued over the first prescribed time, a power source is turned off. When the medium 21 is not fitted and the non-operating state is continued over a second time shorter than the first time, the power source is turned off.

In other words, *Saito* discloses turning the power off in two situations: 1) when no operation is performed during a first time period; and 2) if the recording medium is not inserted during a second time period.

In contrast, the present invention of claim 1 recites, *inter alia*, a timer for measuring elapsed time since the power supply from the power supply part is suspended, and the controller turns off the master switch when the elapsed time reaches a predetermined time shorter than a time for an automatic power-off control while the detector does not detect that the lid is closed.

There is no teaching or suggestion in *Saito* that directed to a timer for measuring elapsed time since the power supply from the power supply part is suspended. *Saito* merely discloses operating power off corresponding to the presence or absence of the information-recording medium

operating a power off based on a non-operation.

Further, there is no teaching or suggestion in *Saito* that is directed to measuring elapsed time since the power supply from the power supply part is suspended, and the controller turns off the master switch when the elapsed time reaches a predetermined time shorter than a time for an automatic power-off control. As *Saito* does not disclose measuring elapsed time since the power supply from the power supply part is suspended, there is no controller of *Saito* that turns off the master switch when the elapsed time reaches a predetermined time shorter than a time for an automatic power-off control based on the time since the power is suspended. *Saito* merely discloses one power-off operation, either when there is no operation or when the medium is not detected.

Additionally, there is no teaching or suggestion in *Saito* that discloses the controller having a timer for measuring elapsed time since the power supply from the power supply part is suspended and the controller turns off the master switch when the elapsed time reaches a predetermined time shorter than a time for an automatic power-off control **while the detector does not detect that the lid is closed**. *Saito* clearly discloses turning the power off based on whether the recording medium is inserted, not on whether or not the detector detects that the lid is closed.

Still further, the Examiner asserts *Maeda* inherently performs resumption of the power supply from the power supply part when the detector detects that the lid is closed during the suspension of the power supply, otherwise once the power was suspended, it would never be restarted again. However, it is does not necessarily flow that the controller resumes power upon detection of the lid being closed, as it is possible that the user may need to restart the power manually. As such, it is not inherent that *Maeda* discloses performing resumption of the power supply from the power supply part when the detector detects that the lid is closed during the suspension of the power supply.

Finally, the Examiner asserts a time to measure the elapsed time since the power supply from the power supply part is suspended would be inherently taught. However, *Saito* clearly discloses measuring time corresponding to the presence or absence of the information recording medium. As *Saito* is not concerned with measuring time from the suspension of power from the power supply part, it does not necessarily flow that *Saito* would include a timer for performing such a measurement.

*Saito* fails to cure the deficiencies of the teachings of *Maeda*. As neither of the references, either alone or in combination, teach or suggest all of the claim elements, claim 1 is patentable over the references as cited by the Examiner.

Claim 2 is allowable for the reasons set forth above with regard to claim 1 at least based upon its dependency on claim 1. The Examiner relies on his rejection of claim 1 to support his rejection of claims 11 and 16. As claims 11 and 16 include the element of the controller having a timer for measuring elapsed time since the power supply from the power supply part is suspended, Applicant submits claims 11 and 16 are patentable for the reasons noted above regarding claim 1.

**The Examiner has Failed to Establish Prima Facie Obviousness  
by Failing to Provide References that Teach or Suggest All of the Claim Elements in Asserting  
Obviousness over *Uryu* in view of *Matsuo*, *Kannan et al.*, and *Saito***

The Examiner has made clear error in stating certain claim elements are taught by an unduly broad interpretation of the teachings of the prior art.

The Examiner alternatively rejects the claims under 35 U.S.C. §103(a) as being unpatentable over *Uryu* in view of *Matsuo* and *Kannan et al.* and further in view of *Saito*. However, Applicant respectfully submits that the claims are patentable over the references as cited for similar reasons as noted above with regard to the *Maeda/Saito* rejection.

The Examiner admits that none of *Uryu*, *Matsuo*, and *Kannan et al.* teach or suggest the

controller having a timer for measuring elapsed time since the power supply from the power supply part is suspended and the controller turns off the master switch when the elapsed time reaches a predetermined time shorter than a time for automatic power-off control while the detector does not detect that the lid is closed. The Examiner relies on the teachings of *Saito* to cure the deficiencies of the three (3) other cited references. However, as noted above, *Saito* clearly discloses calculating the time depending on the memory card. There is no teaching or suggestion in *Saito* that is directed to the controller measuring elapsed time since the power supply from the power supply part is suspended. Further, there is no teaching or suggestion in *Saito* that is directed to turning off the master switch based on the detector detecting whether or not the lid is closed.

For these reasons, Applicant respectfully submits that the combination of the references cited by the Examiner fail to teach or suggest all of the claim elements and thus, Applicant maintains that the claims are patentable over the references as cited.

**Conclusion**

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: March 3, 2006

Respectfully submitted,  
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